

The Date of the *Synopsis Minor* of the Basilics¹

MICHAEL ANGOLD

It comes as no surprise that the *Synopsis Minor* of the Basilics has been more or less neglected by modern scholars, for it is hardly an impressive monument of Byzantine jurisprudence. It is little more than a hack compilation of excerpts taken for the most part from the *Synopsis Major* of the Basilics and the *Ponema Iuris* of the eleventh-century historian Michael Attaleiates. Its main interest lies in the inclusion of some of Manuel I Komnenos's (1143–80) legislation.² This furnishes a *terminus post quem* for the date of the *Synopsis Minor*. A *terminus ante quem* is furnished by its earliest manuscript, which dates from the late thirteenth century. K. E. Zachariae von Lingenthal, the editor of the *Synopsis Minor*, ventured to suggest that it was compiled under the Emperors of Nicaea, most probably during the reign of John III Vatatzes (1222–54).³ Modern scholarship has followed him, with a greater or lesser degree of conviction.⁴

It is this readiness to accept Von Lingenthal's attribution of the *Synopsis Minor* to the period of the Nicaean Empire, which makes its exhumation worthwhile. If the attribution is correct, it would be fair to conclude that the jurists of the Nicaean Empire were capable, at however rudimentary a level, of a creative approach to the study of Roman Law. It is exactly this kind of

1. The text is to be found in J. and P. Zepos, *Jus Graecoromanum* (Athens, 1931), VI, pp. 319–564.

2. *Ibid.*, pp. 347, 515, 540–1.

3. *Ibid.*, p. 321.

4. E.G. *Cambridge Medieval History*, IV (1923), p. 722; IV, part 2 (1967), p. 274, n. 1.

consideration which has recently persuaded N. G. Svoronos to attribute to the period of the Nicaean Empire an altogether more substantial piece of jurisprudence: the tenth and final edition of the *Synopsis Major* of the Basilics, which shows certain similarities to the *Synopsis Minor*. They both display an interest in the legislation of Manuel I Komnenos.⁵ All this fits very well with certain preconceptions about the Nicaean Empire: that in exile the Emperors of Nicaea were able to recover the Byzantine heritage in all its variety and begin the task of restoration. There is much truth in this, but it should not be allowed to blind us to the rudimentary character of the system of government and justice established in the Nicaean Empire. The alacrity with which the Emperors of Nicaea were willing to sanction the use of the ordeal suggests that little attention can have been paid to the legal principles which the Byzantines inherited from the Later Roman Empire.⁶

It is immediately apparent that Von Lingenthal's reasons for attributing the *Synopsis Minor* to the reign of John Vatatzes were cavalier. He seized upon one chapter (Lit. B, ch. 46) and asserted that it reflected conditions that might be expected at the Nicaean court.⁷ The chapter goes as follows:

When the emperor hears a case, it is not necessary to seek a definite term (*prothesmia*), that is a fixed day and time, within which those who are to be judged by the emperor should do whatever [is required], nor are they permitted to seek such a term, but those who are to be tried by the emperor ought to be ready at any moment to meet any contingency and . . . to make sure that they have not overlooked any of the details of the case which is to be tried.

This has nothing to do with the procedures of the Nicaean court. It is simply an expansion of a paragraph of Attaleiates's *Ponema Iuris*.⁸

It is nevertheless interesting that the compiler of the *Synopsis*

5. N. G. Svoronos, *La synopsis major des Basiliques et ses appendices (Bibliothèque byzantine. Etudes, 4 [Paris, 1964])*, pp. 181–8.

6. M. J. Angold, *A Byzantine Government in Exile* (Oxford, 1975), pp. 166–74.

7. Zepos, op. cit., VI, p. 321.

8. Ibid., VII, p. 497 (para. 47).

Minor should have decided to expand rather than to follow his usual habit of abridging. His decision may well reflect Manuel I Komnenos's concern to speed up the process of justice. In particular, he wished to ensure that the imperial tribunal was not clogged up by unnecessary business and avoidable delays.⁹

Von Lingenthal passed over the only chapter in the *Synopsis Minor* which might have yielded a more precise date for the work. This is Lit. B., chapter 47, which may be translated as follows:

It should be known that it was customary for horse races to be held on the day on which the emperor was born, as for a great festival. Ancient custom used to demand this. A new law, honouring Sunday as a day consecrated to God, now forbids horse races on a Sunday, even if it is the birthday of the emperor, for the prerogatives of a Sunday outweigh those of the emperor's birthday. As a result, horse races are ruled out on this day. They call the day on which the emperor was born the birthday of the emperor. However, it is celebrated on the day on which the emperor was proclaimed.¹⁰ Should this fall on a Sunday, the prerogatives of a Sunday hold good. Our emperor [was proclaimed] not merely on a Sunday, but on Easter Sunday at the hour when the *Christos Aneste* was being intoned by the priest. This was clear proof of God's favour towards him and of the bounty which He intended to provide the Byzantines through His most distinct token.

In other words, in order to date the *Synopsis Minor* we have to find an Emperor who came to the throne on an Easter Day between the accession of Manuel I Komnenos and the fall of Constantinople to the Latins in 1204, for the concern about horse racing would appear to rule out any later date. Not only was the Hippodrome abandoned for racing after 1204, but horse races did not form any part of the court ceremonial of the Nicaean Empire nor of that of the Byzantine Empire restored in

9. Ibid., I, pp. 389–96; L. Bréhier, *Les institutions de l'empire byzantin* (Paris, 1949), p. 233.

10. Cf. Theodore Balsamon's opinion: *Νατάλια δὲ εἰσὶ τὰ τῶν βασιλέων γενέθλια καὶ ἡ τούτων ἀναγόρευσις* (G. A. Rhalles and M. Potles, *Syntagma tōn theiōn kai hierōn kanonōn* (Athens, 1852), I, p. 141; ll. 26–7).

1261.¹¹ Otherwise, Theodore I Laskaris, the founder of the Nicaean Empire, might have come into the reckoning. The exact date of his proclamation as Emperor is not known for certain, but it took place around Easter 1205.¹²

In the period between 1143 and 1204 only two Emperors came to the throne at Eastertide: Manuel I Komnenos and Alexios III Angelos (1195–1203). Both Emperors acceded to the throne in rather dubious circumstances. Strangely enough, both were able to derive advantage from hunting expeditions. Manuel may possibly have connived at the murder of his father John II Komnenos (1118–43), which was disguised as a hunting accident,¹³ while Alexios took the opportunity of the absence of his brother Isaac II Angelos (1185–95) on a hunting trip to stage a *coup d'état*.¹⁴ Manuel's accession also had other elements of a usurpation about it: he was preferred to his elder brother Isaac, who should have by rights succeeded to the throne.¹⁵ Both Manuel and Alexios needed to present their elevation to the imperial dignity in the most favourable light. It would have been tempting to use the fact that they had come to the throne at Eastertide for propaganda purposes.

There is one inconvenient fact that we cannot pass over: neither Manuel nor Alexios seems to have been officially proclaimed Emperor on Easter Day itself. Manuel was invested with the symbols of office by his dying father and then proclaimed Emperor by the magnates and the army on the Easter Monday of 1143. Nicetas Choniates records that on the Easter Sunday John II Komnenos who realized that he was dying from his wounds took communion and then invited all those with any request to come to him.¹⁶ He was clearly under

11. R. Guillard, *Etudes byzantines* (Paris, 1959), pp. 89–107.

12. *Orationes et Epistulae Nicetae Choniatae*, ed. J. A. Van Dieten (*CFHB*, III [Berlin, New York 1972]), p. 134, ll. 14–29; B. Sinogowitz, 'Über das byzantinische Kaisertum nach dem Vierten Kreuzzuge 1204–1205', *BZ*, XLV (1952), 348–51.

13. R. Browning, 'The Death of John II Komnenos', *B*, XXXI (1961), 229–35.

14. *Nicetae Choniatae Historia* (*CSHB*, 1835), pp. 589–94; ed. J. A. Van Dieten (*CFHB*, XI/1 [Berlin, 1975]), pp. 448–52.

15. *Ibid.*, pp. 561–2 (*CSHB*); p. 429 (*CFHB*). *Ioannis Cinnami Epitome rerum ab Ioanne et Alexio Comnenis gestarum* (*CSHB*, 1836), pp. 28–29.

16. Nicetas Choniates, p. 55, ll. 8–26, (*CSHB*); p. 41, ll. 1–3 (*CFHB*).

pressure to choose a successor and it is not impossible that the faction in the imperial camp which favoured Manuel had prematurely acclaimed him on the Easter Sunday. Alexios III Angelos's claims to have been proclaimed Emperor on an Easter Sunday are even more flimsy. His brother Isaac II Angelos celebrated Easter on 2 April 1195 at Rhaidestos and then moved to Kypselia, where three or four days later Alexios staged his *coup*. The only event of note recorded for the Easter Sunday concerned a Holy Man called Basilakios. Isaac went to consult him about the expedition he was about to make against the Bulgarians. Far from giving the Emperor his blessing the Holy Man attacked a portrait of the Emperor which was hanging on the wall and poked out the eyes with the staff he was carrying. He even tried to knock the Emperor's hat off.¹⁷ This incident was clearly the opening round in Alexios's bid for power. It should be taken as an attempt to discredit Isaac and to show that he was unworthy of the imperial office.¹⁸

Both Manuel and Alexios did their best to surround their accession with a web of propaganda. The story was circulated that just before Manuel was raised to the imperial dignity a woman of dignified mien and dressed in a dark garment—the Theotokos was obviously intended—had appeared to him in a dream. She offered him the purple buskins of an Emperor in the place of the blue ones that he wore as the holder of the rank of *sebastokrator*. At about the same time there was another incident. A Holy Man from Galilee singled him out as the only one of John II Komnenos's sons fit to hold the imperial office.¹⁹ Alexios's propaganda was more circumspect. He let it be known that he had not acted against his brother of his own will, but had been compelled to take the action he had by a clique of magnates, who had threatened him with death if he did not comply with their wishes.²⁰

Alexios's claims to have come to the throne on an Easter Sunday appear to be very weak. It might possibly have been

17. Ibid., pp. 591–592 (CSHB); p. 449 (CFHB). C. M. Brand, *Byzantium confronts the West 1180–1204* (Cambridge, Mass., 1968), pp. 112–13.

18. Nicetas Choniates, p. 592, ll. 9–15, (CSHB); p. 449, ll. 41–51 (CFHB).

19. Cinnamus, p. 23, ll. 8–20. Cf. Theodoros Prodromos, *Historische Gedichte* ed. W. Horandner (Wiener Byzantinistische Studien, XI [Vienna, 1974]), No. xxix, pp. 345–7.

20. Nicetas Choniates, p. 597, ll. 10–18 (CSHB); p. 453 ll. 3–5 (CFHB).

argued that his accession began with the actions of the Holy Man Basilakios against Isaac II Angelos, for a court orator, John Kamateros, the future Patriarch, was to take up the theme that the Emperor had come to the throne at Easter in a speech delivered on the Feast of Epiphany 1196.²¹ Nothing similar can be found in the rhetorical productions which have survived from the reign of Manuel Komnenos. Nor do the prefaces to his many novels, which might be expected to contain the stock propaganda themes of the reign, contain any hint that Manuel's accession was in any way connected with Easter.

The attribution of the *Synopsis Minor* to the reign of Alexios III Angelos is given weight by two other considerations. Although the compiler includes abridgements of three of Manuel's novels,²² he does not indicate that he was the reigning Emperor. Even more pertinent is one of the provisions contained in Manuel Komnenos's novel of 1166 which regulated festivals:

My Imperial Majesty decrees that those days which have been holidays to celebrate the Imperial birthday or accession should be working days. . . . Those days on which my Imperial Majesty came into this life and was proclaimed Emperor by God's providence, it is decreed, should be working days and the law courts should not cease to function on those days.²³

It seems odd that, if Manuel had wished to use his accession at Eastertide for propaganda purposes, no reference to the fact is made in this novel. Manuel was politically in a much stronger position than Alexios III Angelos. Alexios even changed his surname to Komnenos to give himself added respectability.²⁴ A false claim that he had come to the throne on Easter Sunday would tally with his desperately weak position.

The evidence suggests that the *Synopsis Minor* of the Basilics

21. W. Regel, *Fontes rerum byzantinorum, sumptibus Academiae Scientiarum Rossicae* (Petrograd, 1892–1917), I, 1–2, No. xiv, pp. 244–54. For the dating, see Georges et Démétrios Tornikès, *Lettres et Discours*, ed. J. Darrouzès (Paris, 1970), p. 47 and n. 17. I have to thank Paul Magdalino for these references.

22. Zepos, op. cit., VI, pp. 347, 515, 540–1.

23. Zepos, op. cit., I, p. 402, ll. 24–6, 30–3.

24. Nicetas Choniates, p. 605, ll. 8–11, (*CSHB*); p. 459, ll. 54–6 (*CFHB*).

was put together in the reign of Alexios III Angelos rather than that of Manuel I Komnenos, but more important is the conclusion that it was not a compilation made under the Emperors of Nicaea, but a work of the second half of the twelfth century.

University of Edinburgh